



## **FACTSHEET | Litigating to Restore the Day in Election Day**

**The Public Interest Legal Foundation (PILF) filed a federal lawsuit claiming that North Dakota’s laws that accept and count ballots up to 13 days after Election Day violates federal law.**

- Federal law requires a **single national Election Day** to be held on “the first Tuesday after the first Monday in November of every even-numbered year.”
  - Every mention of Election Day in federal law is singular, not plural.
  - Congress reaffirmed that Election Day is a singular day in passage of the Electoral Count Reform Act that reiterated a singular “Election Day.”
- North Dakota law conflicts with federal law by allowing the acceptance and tabulation of ballots that arrive up to **13 days after Election Day**.
- PILF filed a federal lawsuit in the United States District Court to have the state’s law that expands Election Day to be declared a violation of federal law.
  - PILF is representing Mark Splonskowski, a county auditor, who is seeking clarity about his obligations so he is not forced to choose between violating state or federal law in his official duties.
  - Mr. Splonskowski took an oath to follow state and federal law and, in this circumstance, they appear to conflict.
  - Defendant in the case is Erika White, the State Elections Director for North Dakota. She is responsible in her official capacity of giving guidance to election officials which ballots should be counted. The complaint does not allege that she has engaged in any misbehavior or abuse of office; rather, it claims that the state law she must enforce conflicts with federal law, nothing more.

**The policies expanding Election Day to Election Month lead to delayed results and distrust in our elections.**

- Americans deserve to know the results of their elections on the night of Election Day.
- Election Day used to be just that, Election Day. Now, we have Election Month.

- In 2022, the last U.S. Senate and Gubernatorial race were finally called on November 23, a total of **15 days** after Election Day.
- In 2022, the last U.S. House seat was called by the Associated Press on December 13. A total of **35 days** after the Election
- When it takes states weeks to count results, it leads to distrust and confusion.
- If a state like Florida, where millions of people cast absentee ballots, can get its results in on Election night, as it did in 2022, then the other 49 states should be able to as well.

**The delay in election results is a national problem driven by a large number of states accepting mail ballots that arrive days and even weeks after Election Day.**

- North Dakota, along with 17 other states and the District of Columbia, accept ballots that arrive after Election Day.
- These states are violating federal law by counting ballots that arrive sometimes up to 2 weeks after Election Day.
- Prolonged elections with uncertain results are undermining confidence in the electoral system with significant segments of the country. This is corrosive to the nation.

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